

***EXHIBIT “L”***

**In The Matter Of:**

*MALIBU TEXTILES, INC., v.  
CAROL ANDERSON, INC & CABI, LLC,*

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**RICHARD SAMUELS**  
*March 6, 2008*

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**URBAN COURT REPORTING**  
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*New York, NY 10036*  
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**SAMUELS , RICHARD - Vol. 1**

RICHARD SAMUELS

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MALIBU TEXTILES, INC,

Plaintiff,

Civil Action No.

-against- 07-CV-4780(SAS)

CAROL ANDERSON, INC and CABI, LLC,

Defendants.

-----x  
March 6, 2008

10:15 a.m.

Deposition of RICHARD SAMUELS, taken by  
Plaintiff, pursuant to Notice, at the offices of  
Lazarus & Lazarus, 240 Madison Avenue, New York,  
New York, before Jowell Falsetta, a certified  
Shorthand Reporter and Notary Public within and  
for the State of New York.

20 (Pages 74 to 77)

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<p>1 RICHARD SAMUELS</p> <p>2 A. Whether the item was created</p> <p>3 prior to or existed then, correct.</p> <p>4 Q. You did not know?</p> <p>5 A. I didn't know.</p> <p>6 Q. The letter goes on to read,</p> <p>7 "Metritek and Company agree, that the works</p> <p>8 referring to Exhibit A are works made for</p> <p>9 hire for the company as that term is defined</p> <p>10 in section 101 of the 1976 Copyright Act."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. The date that you executed</p>	<p>1 RICHARD SAMUELS</p> <p>2 letter, had you at any time had a discussion</p> <p>3 with Mr. Jablan regarding the assignment of</p> <p>4 the copyrights to Malibu Textiles by</p> <p>5 Metritek?</p> <p>6 A. Typically anything created by</p> <p>7 Metritek for us has always been under the</p> <p>8 understanding that we were the ones to</p> <p>9 copyright the patterns, that he did not.</p> <p>10 Patterns that he gave us, Malibu Textiles had</p> <p>11 the right to copyright.</p> <p>12 Q. Specifically at the moment with</p> <p>13 respect to these documents in front of you</p>
<p>15 what was a work made for hire as that term</p> <p>16 was defined in section 101 of the 1976</p> <p>17 copyright act?</p> <p>18 A. No.</p> <p>19 Q. Do you have such an</p> <p>20 understanding as you sit here today?</p> <p>21 A. Not fully, no.</p> <p>22 Q. What do you understand today to</p> <p>23 be a work made for hire?</p> <p>24 A. I am not really sure what a work</p> <p>25 made for hire is specifically.</p>	<p>15 signature on this document, did you at any</p> <p>16 time have a specific discussion with</p> <p>17 Mr. Jablan concerning the assignment of</p> <p>18 copyrights in these patterns to Malibu</p> <p>19 Textiles by Metritek?</p> <p>20 A. I have not specifically</p> <p>21 acknowledged that I spoke to him specifically</p> <p>22 regarding these two patterns.</p> <p>23 Q. Now, after you signed this</p> <p>24 document, to whom did you deliver it if</p> <p>25 anyone?</p>
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<p>1 RICHARD SAMUELS</p> <p>2 Q. Are styles 2479 and 2351 works</p> <p>3 made for hire?</p> <p>4 A. Again I am not sure. No, I</p> <p>5 don't know that.</p> <p>6 Q. The letter goes on to state that</p> <p>7 into the extent that the works are determined</p> <p>8 not to be works made for hire, Metritek</p> <p>9 hereby irrevocably and perpetually assigns</p> <p>10 and transfers ownership of all rights,</p> <p>11 including but not limited to copyright in the</p> <p>12 works throughout the world to the company,"</p> <p>13 the sentence goes on.</p> <p>14 Prior to your signature appearing on</p> <p>15 this document, had you had a discussion as to</p> <p>16 any portion of this letter with Mr. Jablan?</p> <p>17 A. No.</p> <p>18 Q. And prior to your signature</p> <p>19 appearing on this document, had you had at</p> <p>20 any time had a discussion with Mr. Jablan</p> <p>21 concerning the statement in this letter that</p> <p>22 the work 2351 and 2479 were works made for</p> <p>23 hire?</p> <p>24 A. No.</p> <p>25 Q. Prior to your signing this</p>	<p>1 RICHARD SAMUELS</p> <p>2 A. I didn't deliver it to anyone.</p> <p>3 Q. Do you see that Mr. Jablan's</p> <p>4 signature purports to be in the document on</p> <p>5 the lower left-hand corner?</p> <p>6 A. Yes, I do.</p> <p>7 Q. And do you recognize that as</p> <p>8 Mr. Jablan's signature?</p> <p>9 A. No, I never witnessed</p> <p>10 Mr. Jablan's signature.</p> <p>11 Q. Did you ever at any time discuss</p> <p>12 this document with Mr. Jablan?</p> <p>13 A. No, I don't believe so.</p> <p>14 Q. And do you know how Mr. Jablan's</p> <p>15 signature came to be on the document?</p> <p>16 A. No, do I know how it got there?</p> <p>17 Q. Yes.</p> <p>18 A. I presume he signed it.</p> <p>19 Q. I apologize. What I mean who</p> <p>20 delivered this document to Mr. Jablan, do you</p> <p>21 know?</p> <p>22 A. I would think that my attorneys</p> <p>23 did.</p> <p>24 Q. You did not?</p> <p>25 A. I personally did not.</p>

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<p>1 RICHARD SAMUELS</p> <p>2 Q. Do you know if Mr. Irwin did?</p> <p>3 A. I don't know but I don't believe</p> <p>4 so.</p> <p>5 Q. The additional documents are the</p> <p>6 documents now marked as Samuels 1 and the</p> <p>7 document previously marked as Jablan 3.</p> <p>8 And I believe that you testified that</p> <p>9 with respect to these documents you have no</p> <p>10 -- you had not seen them before?</p> <p>11 A. That is correct.</p> <p>12 Q. And with respect to the</p> <p>13 statements appearing in each of these letters</p> <p>14 to the effect that the Malibu Textiles and</p> <p>15 Metritek agreeing that the work is a work</p> <p>16 made for hire, am I correct that you have no</p> <p>17 more or less knowledge as to that statement</p> <p>18 with respect to the patterns described in</p> <p>19 these letters than you had with respect to</p> <p>20 2351?</p> <p>21 A. Correct.</p> <p>22 Q. So you do not know whether they</p> <p>23 were or were not works made for hire?</p> <p>24 A. Correct.</p> <p>25 Q. And with respect to any specific</p>	<p>1 RICHARD SAMUELS</p> <p>2 A. Correct.</p> <p>3 Q. And do you see that Samuels' 1</p> <p>4 also pertains to those same patterns?</p> <p>5 A. Yes.</p> <p>6 Q. Do you have any personal</p> <p>7 knowledge as to why there is a second letter</p> <p>8 signed off on by Mr. Jablan and by a</p> <p>9 representative of Malibu concerning patterns</p> <p>10 2479, 2351?</p> <p>11 A. Why there is a second document?</p> <p>12 Q. Yes.</p> <p>13 A. I don't know.</p> <p>14 Q. Have you ever discussed either</p> <p>15 of these documents with Mr. Irwin?</p> <p>16 A. No, I have not.</p> <p>17 Q. Since joining Malibu Textiles on</p> <p>18 or about 1999 I think you said?</p> <p>19 A. Something like that.</p> <p>20 Q. Have you ever had a discussion</p> <p>21 with Mr. Jablan concerning the ownership of</p> <p>22 the copyright with respect to patterns knit</p> <p>23 by Metritek for Malibu?</p> <p>24 A. Anyone in particular or just in</p> <p>25 general?</p>
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<p>1 RICHARD SAMUELS</p> <p>2 discussions between yourself and Mr. Jablan</p> <p>3 concerning an assignment of copyrights in the</p> <p>4 patterns described in these letters which</p> <p>5 include now 2433, did you ever have a</p> <p>6 discussion with him specifically concerning</p> <p>7 the assignment of pattern 2433?</p> <p>8 A. No.</p> <p>9 Q. Do you know if Mr. Irwin did?</p> <p>10 A. I do not.</p> <p>11 Q. Do you know if Mr. Irwin ever</p> <p>12 specifically had a discussion with Mr. Jablan</p> <p>13 concerning the assignment of either 2479 or</p> <p>14 2351?</p> <p>15 A. No.</p> <p>16 Q. Do you have or do you see that</p> <p>17 the document of October 22, 2007 which has</p> <p>18 been marked previously as Jablan 2 relates to</p> <p>19 patterns 2479 as does the document now marked</p> <p>20 as Samuels' 1?</p> <p>21 A. Correct, this relates to this</p> <p>22 (indicating).</p> <p>23 Q. Just for clarity, am I correct</p> <p>24 that Jablan 2, the letter of October 22</p> <p>25 pertains to pattern known as 2479 and 2351?</p>	<p>1 RICHARD SAMUELS</p> <p>2 Q. Any conversation at all, a</p> <p>3 specific conversation about ownership of</p> <p>4 copyrights with Mr. Jablan?</p> <p>5 A. No, I don't believe so, no.</p> <p>6 Q. How about any other</p> <p>7 representative of Metritek?</p> <p>8 A. No, he would be the only one.</p> <p>9 MR. LAZARUS: Just give me a</p> <p>10 second or two. I have no further</p> <p>11 questions at this time but there were</p> <p>12 a couple of document requests that I</p> <p>13 made and I would appreciate those</p> <p>14 documents.</p> <p>15 MR. KAPLAN: Can I speak to my</p> <p>16 client before we close?</p> <p>17 MR. LAZARUS: Sure.</p> <p>18 (Off the record.)</p> <p>19 (Mr. Kaplan and Mr. Samuels</p> <p>20 have left the deposition room.)</p> <p>21 (Continued on next page for</p> <p>22 jurat.)</p> <p>23</p> <p>24</p> <p>25</p>